



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

HCRA NO. 209 OF 2019

VINCENT IJENJI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant (**VINCENT IJENJI**) has applied to be released on bail pending appeal saying he has already lodged an appeal which has high chances of success. He is apprehensive that the appeal may take long to be admitted and be ready for hearing.

2. The applicant was convicted and sentenced on a charge of defilement Contrary to Section 8(1) and 8(40) of the sexual Offences Act of a girl aged 17 years, and sentenced to serve 15 years imprisonment.

He explains through his advocate **Mr. SAGASI** that he has already obtained proceedings and judgment and is in the process of preparing a record of appeal. He is apprehensive that he might complete sentence before the appeal is heard, pointing out that he is willing to abide by any terms the court may impose if granted bond.

Counsel submits that the appeal stands high chances of success as the age of the appellant was not assessed, and the complainant’s evidence was full of contradictions.

3. In opposing the appeal, Miss Okok on behalf of **DPP** submits that even though the applicant may have an arguable appeal, that alone does not guarantee its success.

Further that given the fact that appellant is already serving sentence, the temptation to jumping bail if released is very high.

4. I have considered the submissions presented, actually the appellant was sentenced on 17th December 2019 to a 15 year term, he has only spent 2 months in prison. If he is able to prepare his record of appeal even within 7 days, then the appeal can be heard within the first half of this year.

As pointed out by Ms Okok. Now that he knows he has a 15 years sentence over his head, the temptation to jump bail, especially taking into account that he had admitted the child was his (this literally pleading guilty to the offence) is very high.

5. I decline to grant bail pending appeal. I direct that appellant gives and serves record of appeal within 7 (seven) days from today and file be placed before High Court duty judge for admission within 7 days from date of ruling.

Delivered online with consent of:

AMOLO, SAGASI & CO ADV..... for the Plaintiffs

DPP..... for Respondent

Further order:

A soft copy to be availed to the parties through their email addresses.

Delivered, Signed and Dated this 8th day of APRIL 2020 at Eldoret

H. A. OMONDI

JUDGE